

180449



JAN 11 2007

PROMPT REPLY NECESSARY
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Peter Austin
Austin & Austin Company
P.O. Box 9047
Morristown, New Jersey 07963

Re: Request for Information Pursuant to the Federal Superfund Law for the VIP Cleaners
Superfund Site, Morristown, New Jersey

Dear Mr. Austin:

This letter seeks your cooperation in providing information and documents relating to the VIP Superfund Site located at 89 Morris Street, Morristown, New Jersey (the "Site"). We encourage you to give this letter your immediate attention and request that you provide a complete and truthful response to the attached Request for Information within 30 calendar days of your receipt of this letter.

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment, and with enforcement responsibilities under Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9606 et seq. ("CERCLA") also known as the Superfund Law.

EPA has documented the release and threatened release of hazardous substances into the environment at the Site. EPA has completed a Removal Site Evaluation ("RSE") of the Site. The RSE revealed the presence of chemicals generally associated with the dry cleaning process, primarily tetrachloroethene (PCE), beneath and within your building at 89 Morris Street. The highest concentrations identified were within unoccupied spaces.

VIP Cleaners Site, Date: 12/11/06 Filename: Close/out, Cost-Rec., 104e..... 0037

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Lopez Confortini DiGuardia Rotola VanTallie Rooney Karlen Basso

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
EDISON, NEW JERSEY 08837

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In response to the above-described releases of hazardous substances and the threat of future releases, EPA has spent and will continue to spend public funds. In particular, EPA will initiate additional subsurface and groundwater investigations in the vicinity of the Site. These actions were and will be undertaken by EPA and its contractors pursuant to the removal authority set forth in Section 104(a) of CERCLA, 42 U.S.C. § 9604(a).

Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to provide information or documents relating to materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release of a hazardous substance, or pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the enclosed Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with a Request for Information.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our information request you must promptly notify EPA.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Your response to this Request for Information should be mailed to:


Andrew Confortini
Removal Action Branch
U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue, Bldg 209
Edison, New Jersey 08837

A copy of your reply should be sent to:

Michael J. van Itallie
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th floor,
New York, New York 10007-1866

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, you may call Mr. Confortini, On-Scene Coordinator for the Site at (732) 906-6827. Please direct all inquiries from an attorney to Mr. van Itallie at (212) 637-3151.

Sincerely yours,



Raymond Basso
Strategic Information Manager
Emergency and Remedial Response Division

Enclosures

cc: Matthew J. O'Donnell, Esq.

bcc: Andrew Confortini, ERRD
Michael J. van Itallie, ORC-NJSUP

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. **Answer Every Question Completely.** A separate response must be made to each of the questions set forth in this Request for Information. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. **Number Each Answer.** Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. **Provide the Best Information Available.** Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees and/or agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Request for Information. Whenever in this Request for Information there is a request to identify a natural person or an entity other than a natural person, state, among other things, the person or entity's full name and present or last known address.
4. **Identify Sources of Answers.** For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. **Inability to Answer or Provide Documents.** If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and telephone number and the reasons for your belief.
6. **Documents.** If anything is deleted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the deletion. If a document is requested but is not available, state the reason for its unavailability.
7. **Continuing Obligation to Provide and to Correct Information.** If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to EPA.

8. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and Section 3007(b) of RCA, 42 U.S.C. § 6927(b), and 40 C.F.R. Part 2.203(b). To prove your claim of confidentiality, each document must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others;
- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. whether you assert that disclosure of the information would be likely to result in substantial harmful effect on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "CONFIDENTIAL" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit in separate envelopes both a clean and a redacted version of any documents or response for which you make a claim of confidentiality.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

9. Disclosure to EPA Contractor. Information which you submit in response to this Request for Information may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. Part 2.310(h), even if you assert that all or part of it is

confidential business information. Please be advised that EPA intends to disclose all responses to this Request for Information to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Request for Information. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Request for Information.

10. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
11. Objections to Questions. If you have objections to some or all the questions within the Request for Information letter, you are still required to respond to each of the questions.

B. Definitions

The following definitions shall apply to the following words insofar as they appear in this Request for Information.

1. The terms "you" and "your," shall mean Peter Austin.
2. As used herein, the terms "the company" and "your company" refer not only to Austin & Austin Company as it is currently named and constituted, but also to all predecessors in interest of your company, and all subsidiaries, divisions, affiliates and branches of your company.
3. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
4. The term "Site" shall mean the VIP Cleaners Superfund Site located at 89 Morris Street, Morristown, New Jersey and identified as Block 4801, Lot 11 on tax assessment map of Morristown, New Jersey.
5. The term "Austin Property" shall mean a parcel and building located at 89 Morris Street, Morristown, New Jersey and identified as Block 4801, Lot 11 on tax assessment map of Morristown, New Jersey.
6. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants, or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.

7. The term "industrial waste" shall mean any solid, liquid or sludge or any mixture thereof which possesses any of the following characteristics:
- a. It contains one or more "hazardous substances" (at any concentration) as defined in 42 U.S.C. Section 9601 (14);
 - b. It is a "hazardous waste" as defined in 42 U.S.C. Section 6903(5);
 - c. It has a pH less than 2.0 or greater than 12.5;
 - d. It reacts violently when mixed with water;
 - e. It generates toxic gases when mixed with water;
 - f. It easily ignites or explodes;
 - g. It is an industrial waste product;
 - h. It is an industrial treatment plant sludge or supernatant;
 - i. It is an industrial byproduct having some market value;
 - j. It is a coolant water or blowdown waste from a coolant system;
 - k. It is a spent product which would be reused after rehabilitation; or
 - l. It is any material which you have reason to believe would be toxic if either ingested, inhaled or placed in contact with your skin.
8. The terms "facility" and "hazardous substance", shall have the meanings set forth in Section 101(9) and (14) of CERCLA, 42 U.S.C. §9601(9) and (14), respectively.
9. The terms "hazardous waste", "disposal" and "storage" shall have the meanings contained in Sections 1004(5), (3) and (33) of Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sections 6903(5), (3) and (33), respectively.
10. The term "pollutant or contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
11. The term "identify" means, with respect to a natural person, to set forth:
- a. the person's full name;
 - b. present or last known business and home addresses and telephone numbers; and
 - c. present of last known employer (include full name and address) with title, position, or business.
12. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
13. The term "entity" or "entities" refers to persons, individuals, companies, partnerships, or any other type of business association.

14. The term "documents" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
15. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
16. The terms "material" or "materials" mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
17. The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
18. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

REQUEST FOR INFORMATION

1. For Austin & Austin Company ("Austin & Austin") please:
 - a. State the correct legal name and mailing address.
 - b. Identify the legal status of your company (corporation, partnership, limited partnership, sole proprietorship, other –must specify), the state and year in which your company was organized or formed.
 - c. State the name(s) and address(es) of the President, the Chairman of the Board, and the Chief Executive Officer of your company and the principal shareholders of Austin & Austin. If a partnership, please supply the names, addresses and telephone numbers of the partners and a copy of partnership agreement.
 - d. Provide the name and address of the agent for service of process for Austin & Austin in the state of incorporation and in New Jersey.
2. If Austin & Austin is a subsidiary or affiliate of another corporation, or has subsidiaries, or is a successor to another company, identify these related companies and for each such entity state the names and addresses of the President, the Chairman of the Board, and the Chief Executive Officer. For each related company, describe the relationship to Austin & Austin and indicate the date and manner in which each relationship was established.
3. Describe (a) the nature of the business in which your company is engaged and (b) provide a narrative description of its operations at the Austin Property as that term is defined in #5 of the Definitions. If these operations have changed over time, please indicate how they have changed (including any name changes) and approximately when the changes occurred.
4. For Peter Austin:
 - a. State your full name and legal address.
 - b. State the name of the person(s) that holds legal title to the Austin Property ("Current Owner").
 - c. Provide a copy of the contract of sale and deed for the Austin Property.

- d. State when the Current Owner acquired title to the Austin Property and from whom.
 - e. What was the nature of the relationship of the Current Owner with the seller identified in the previous question.
 - f. State (i) when the structure(s) located at the Austin Property were built, (ii) describe the uses of such structures, and (iii) describe the nature of the businesses that occupied the structures from the time the structures were erected until the present. If any buildings on the Austin Property were altered or demolished over time, please describe these changes.
5. Did you and/or Austin & Austin operate any dry cleaning facilities ("Dry Cleaning Facilities") at the Austin Property? If yes,
- a. State the name of all such Dry Cleaning Facilities;
 - b. The dates of operation of each Dry Cleaning Facility;
 - c. Describe the nature of the operations of each Dry Cleaning Facility;
 - d. Specify the dry cleaning chemicals used by each Dry Cleaning Facility; and
 - e. Identify the portions of the Austin Property where each Dry Cleaning Facility operated.
6. For the years 1940-2006, please provide the following information with regard to leasing of the Austin Property to operators of dry cleaning facilities (Dry Cleaning Operators").
- a. The name and current address of each Dry Cleaning Operator;
 - b. The dates of the leases;
 - c. Identify the name of the lessor if different from the name given in your response to Question 6.a. above;
 - d. Copies of the leases;
 - e. Describe the nature of the operations of each Dry Cleaning Operator;
 - f. Specify the dry cleaning chemicals used by each Dry Cleaning Operator;
 - g. Identify the portions of the Austin Property that were leased to each Dry

Cleaning Operator; and

- h. Identify any chemical substances used to clean equipment or machinery.
7. Did you or your company or any lessee generate hazardous substances, hazardous wastes and/or industrial wastes at the Site, including but not limited to, spent tetrachloroethylene (also known as perchloroethylene or "perc") or other solvents or wastes containing such solvents. If your answer is "yes," list the wastes generated and describe the dry cleaning or other processes that generated them.
 8. State how any wastes listed in your response to the preceding question were disposed of. Attach manifests, bill-of-ladings and other tracking documents for all production wastes, hazardous wastes, hazardous substances, pollutants, or contaminants.
 9. Identify by name, job, title, and description, address and years of service all individuals having knowledge of the generation, treatment, storage, transportation, disposal or other disposition of wastes generated at the Austin Property.
 10. Were any hazardous substances, hazardous wastes, process residuals, or recycled/reclaimed material ever disposed of at the Austin Property by any lessee, you, your company, or any of its officers, employees, agents or representatives, either intentionally or unintentionally? For each disposal identified in your response to this question:
 - a. Identify the material disposed of;
 - b. Identify specific areas at the Austin Property where such disposal occurred;
 - c. State the periods during which such disposal occurred at any of the specific areas identified above;
 - d. Describe the method of disposal used; and
 - e. State the quantity of each such material that was disposed.
 11. Identify any leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at or from the Austin Property that you have not identified in your answers to previous questions. In addition, identify:
 - a. The material released;

- b. When such releases occurred;
 - c. How the releases occurred;
 - d. The amount of each hazardous substance, pollutant, or contaminant released; and
 - e. The location of such releases.
12. Describe all fires, explosions, or similar occurrences at the Austin Property, including but not limited to:
- a. The dates of such occurrences;
 - b. The specific locations of such occurrences;
 - c. Identify any material released during the occurrence;
 - d. The nature of such occurrences; and
 - e. The measures taken to respond to them.
13. Did you or your company conduct any assessments and/or cleanup of hazardous substances or hazardous wastes at the Austin Property, including cleanup of contaminated soil? If you answered "yes,"
- a. Identify any environmental contractors and consultants you or your company retained;
 - b. Provide copies of any documents issued by such contractors or consultants that discuss the results of assessments and/or recommend remediation at the Austin Property;
 - c. Identify any such remediation, the dates of the remediation, and the wastes that were disposed of as a result of the remediation;
 - d. Identify any location at the Austin Property where contaminated soil was excavated; and
 - e. Provide analyses of any samples that were taken during the assessments and/or cleanup, including analyses of contaminated soil.
14. Please provide any information, including diagrams, regarding the location of the

following on the Austin Property at the present time or in the past:

- a. Dry wells;
- b. Industrial water supply wells; and
- c. Dry cleaning equipment and chemical storage areas.

Pursuant to the authority in Section 104(e)(2)(C) of CERCLA, 42 U.S.C. § 9604(e)(2)(C), EPA may require any person to furnish information relating to the ability of a person to pay for or to perform a cleanup. Therefore, please answer all of the following questions.

15. Respond to the following requests:

- a. Provide your company's financial statements for the past five fiscal years; and
- b. Identify all of your company's current assets and liabilities and the persons who currently own or control such assets and liabilities.

16. State whether there currently is or ever have been any insurance policies in effect that may indemnify you or your company against any liability that you or your company may incur in connection with the release of any hazardous substance at the Site. If your answer to this question is in the affirmative, please provide:

- a. The name and address of the insurance carrier;
- b. The policy number;
- c. The period during which the policy was in effect, including the expiration date;
- d. Per occurrence limits of each policy; and
- e. State whether you or your company has copies of all policies.

For any policy that you cannot locate or obtain, provide the name of the carrier, years in effect, nature and extent of coverage, and any other information you have. EPA may request copies of all relevant policies at some future date.

17. Did or does there exist any agreement or contract (other than an insurance policy) that may indemnify you or your company or may require you or your company to indemnify another person or any entity against any liability the company or any entity may incur in connection with a release or threatened release of a hazardous substance at the Site? If your answer is in the affirmative, please provide a copy of all such agreements or

contracts.

18. Identify each individual who assisted or was consulted or who answered on behalf of you and the company in the preparation of the response to this Request for Information and specify the question with which each person assisted in responding.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____

County of _____

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to me before this

_____ day of _____, 200__

Notary Public